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Bruce Nappi

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EXAMINER

NORMAN, SAMICA L

ART UNIT

PAPER NUMBER

3696

NOTIFICATION DATE

DELIVERY MODE

11/07/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

Office Action Summary	Application No. 10/669,929	Applicant(s) NAPPI, BRUCE	
	Examiner SAMICA L. NORMAN	Art Unit 3696	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-139 is/are pending in the application.
- 4a) Of the above claim(s) 36-137 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35, 138 and 139 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

PROSECUTION REOPENED

In view of the Pre-Appeal Brief filed on October 6, 2008 and an Appeal conference decision of October 21, 2008, PROSECUTION IS HEREBY REOPENED as set forth here below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a Notice of Appeal under 37 C.F.R. 41.31 followed by an appeal brief under 37 C.F.R. 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 C.F.R. 41.20 have been increased since they were previously paid, then the appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing on the last page of this Office action in accordance with MPEP 1002.02(d) and 1208.02.

Claims 1-35, 138 and 139 are pending.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

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Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-35, 138 and 139 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

3. In order for a method to be considered a "process" under §101, a claimed process must either: (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials). *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972). If neither of these requirements is met by the claim, the method is not a patent eligible process under §101 and is non-statutory subject matter. An example of a method claim that would not qualify as a statutory process would be a claim that recited purely mental steps. Thus, to qualify as a §101 statutory process, the claim should positively recite the other statutory class (the thing or product) to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or positively recite the subject matter that is being transformed, for example by identifying the material that is being changed to a different state. *See Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wells et al., U.S. PG-Pub No. 2003/0110136 (reference A on the attached PTO-892) in view of Winig, "Cracking the Code" (reference U on the attached PTO-892).

3. As per claim 1, Wells et al. teaches a method comprising maintaining a financial account that represents value, on behalf of an account holder, the financial account having a plurality of account identifiers that in the account, or a party that presents a general account identifier to effect both debit and credit transactions in the account (see paragraph 0016, lines 5-10 and paragraph 0017, lines 2-6). Wells et al. fails to teach enabling a third party to effect a credit transaction in the account by presenting a credit identifier, which is an identifier different from the debit or general account identifiers, the credit identifier simultaneously carrying account information capable of identifying the financial account, and transaction information indicating that the credit identifier is insufficient to enable a third party to effect a debit transaction in the account, the account information being inseparable from the transaction information in the credit identifier. Winig teaches enabling a third party to effect a credit transaction in the account by presenting a credit identifier, which is an identifier different from the debit or general account identifiers, the credit identifier simultaneously carrying account information capable of identifying the financial account, and transaction information indicating that the credit identifier is insufficient to enable a third party to effect a debit transaction in the account, the account information being inseparable from the transaction information in the credit identifier (see paragraphs 5-7). The Examiner recognizes that since the system is only set up to process credit

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transactions, then when a debit transaction is attempted the system will indicated that debiting is not possible. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the method of Wells et al. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of eliminating the necessity of revealing bank information to customers and therefore would remove a big obstacle to doing business with previously unknown firms (see paragraph 8 of Winig).

4. As per claim 2, Wells et al. in view of Winig teaches the method of claim 1 as described above. Wells fails to teach including making the credit identifier publicly accessible. Winig teaches including making the credit identifier publicly accessible (see paragraph 6). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the method of Wells et al. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of not having to reveal account or routing numbers (see paragraph 6 of Winig).

5. As per claim 3, Wells et al. in view of Winig teaches the method of claim 1 as described above. Wells et al. further teaches the financial account comprises an account maintained by a banking institution (see paragraph 0041, lines 7-13).

6. As per claim 4, Wells et al. in view of Winig teaches the method of claim 1 as described above. Wells et al. further teaches the account holder comprises an enterprise (see paragraph 0032, lines 1-5 and paragraph 0034, lines 3-6).

7. As per claim 5, Wells et al. in view of Winig teaches the method of claim 1 as described above. Wells et al. further teaches the third party comprises a purchaser of goods or services and

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the credit transaction effects payment for the goods or services (see paragraph 0062, lines 12-16, paragraph 0064 and 0069).

8. As per claim 6, Wells et al. in view of Winig teaches the method of claim 1 as described above. Wells et al. further teaches the third party comprises a payment processing service (see paragraph 0038, lines 1-7).

9. As per claim 7, Wells et al. in view of Winig teaches the method of claim 1 as described above. Wells et al. further teaches the credit identifier comprises a string of characters (see paragraph 0036, lines 8-13).

10. As per claim 8, Wells et al. in view of Winig teaches the method of claim 1 as described above. Wells et al. further teaches the debit identifier or general identifier is associated uniquely with the account (see paragraph 0035, lines 4-7).

11. As per claim 9, Wells et al. in view of Winig teaches the method of claim 8 as described above. Wells et al. further teaches the debit or general identifiers may be plural (see paragraph 0036, lines 13-15).

12. As per claim 10, Wells et al. in view of Winig teaches the method of claim 1 as described above. Wells et al. further teaches the credit identifier may be plural (see paragraph 0036, lines 1-6).

13. As per claim 11, Wells et al. in view of Winig teaches the method of claim 1 as described above. Wells et al. further teaches the debit identifier comprises an account number (see paragraph 0072, lines 5-8).

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14. As per claim 12, Wells et al. in view of Winig teaches the method of claim 1 as described above. Wells et al. further teaches the credit transaction is associated with a commercial transaction (see paragraph 0016, lines 10-12).

15. As per claim 13, Wells et al. in view of Winig teaches the method of claim 12 as described above. Wells et al. further teaches the credit identifier is associated with an aspect of the commercial transaction (see paragraph 0110, lines 3-9).

16. As per claim 14, Wells et al. in view of Winig teaches the method of claim 13 as described above. Wells et al. further teaches the aspect of the commercial transaction comprises an identity of a commodity (see paragraph 0109, lines 1-6).

17. As per claim 15, Wells et al. in view of Winig teaches the method of claim 13 as described above. Wells et al. further teaches the aspect of the commercial transaction comprises a context of the commercial transaction (see paragraph 0109, lines 1-6).

18. As per claim 16, Wells et al. in view of Winig teaches the method of claim 15 as described above. Wells et al. further teaches the credit identifier is unique only with respect to the context in which the commercial transaction occurs (see paragraph 0110, lines 3-9 and paragraph 0114).

19. As per claim 17, Wells et al. in view of Winig teaches the method of claim 15 as described above. Wells et al. further teaches the context of the commercial transaction comprises a physical location (see paragraph 0109, lines 1-6).

20. As per claim 18, Wells et al. in view of Winig teaches the method of claim 15 as described above. Wells et al. further teaches the context of the commercial transaction comprises an identity of a vendor of a commodity (see paragraph 0109, lines 1-6).

21. Claims 19-25, 27, 138 and 139 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winig, "Cracking the Code" (reference U on the attached PTO-892).

22. As per claim 19, Winig teaches a method comprising maintaining a financial account that represents value, on behalf of an account holder (see paragraph 10), and effecting a credit transaction in the account in response to an identification of the financial account and an indication that the identification is insufficient for the third party to effect a debit transaction in the account (see paragraphs 5-7). The Examiner recognizes that since the system is only set up to process credit transactions, then when a debit transaction is attempted the system will indicate that debiting is not possible.

23. As per claim 20, Winig teaches a method comprising maintaining, at a financial institution, a financial account for a merchant (see paragraph 10), the financial account being identified by an account identifier that enables the merchant to withdraw funds from the account (see paragraph 5 and 10), and enabling credit transactions with the account by a third party based on a credit identifier from which the account identifier cannot be determined (see paragraphs 6 and 7), the credit identifier simultaneously carrying account information capable of identifying the financial account, and transaction information indicating that the transaction in the account is a credit transaction, the account information inseparable from the transaction information in the credit identifier (see paragraphs 5-7). The Examiner recognizes that since the system is only set up to process credit transactions, then when a debit transaction is attempted the system will indicate that debiting is not possible.

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24. As per claim 21, Winig teaches a method comprising accepting from one party a proposed credit transaction to be effected in a financial account of an account holder, and forwarding the proposed credit transaction using an identification of the financial account and an indication that the identification is not sufficient to effect a debit transaction in the account (see paragraphs 5-7). The Examiner recognizes that since the system is only set up to process credit transactions, then when a debit transaction is attempted the system will indicate that debiting is not possible.

25. As per claim 22, Winig teaches the method of claim 21 as described above. Wells et al. further teaches the indication is that the identification is associated with a credit transaction (see paragraphs 6 and 7).

26. As per claim 23, Winig teaches the method of claim 22 as described above. Winig teaches including making the credit identifier publicly accessible (see paragraph 6).

27. As per claim 24, Winig teaches the method of claim 21 as described above. Winig further teaches the financial account comprises an account maintained by a banking institution (see paragraph 10).

28. As per claim 25, Winig teaches the method of claim 21 as described above. Winig teaches the account holder comprises a merchant (see paragraph 10).

29. As per claim 27, Winig teaches the method of claim 21 as described above. Winig further teaches the one party comprises a purchaser of goods or services and the credit transaction effects payment for the goods or services (see paragraph 6).

30. As per claim 138, Winig teaches a method comprising: enabling a third party to effect a credit transaction in a financial account of an account holder by presenting a credit identifier that

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carries: account information identifying the financial account, and transaction information indicating that the transaction in the account may only be a credit transaction information being inseparable from the account information in the credit identifier (see paragraphs 5-7). The Examiner recognizes that since the system is only set up to process credit transactions, then when a debit transaction is attempted the system will indicate that debiting is not possible.

31. As per claim 139, Winig teaches the method of claim 20 as described above. Winig further teaches the transaction information indicates that the transaction in the account can only be a credit transaction (see paragraphs 6 and 7).

32. Claims 26 and 28-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winig, "Cracking the Code" (reference U on the attached PTO-892) in view of Wells et al., U.S. PG-Pub No. 2003/0110136 (reference A on the attached PTO-892).

33. As per claim 26, Winig teaches the method of claim 25 as described above. Winig does not explicitly teach the proposed credit transaction is accepted by the merchant and forwarded to an institution that maintains the financial account. Wells et al. teaches the proposed credit transaction is accepted by the merchant and forwarded to an institution that maintains the financial account (see paragraph 0018, lines 1-5 and paragraph 0041, lines 7-13). It would have been obvious to one of ordinary skill in the art to include in the method of Winig the feature of Wells et al. since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately,

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and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

34. As per claim 28, Winig teaches the method of claim 22 as described above. Winig does not explicitly teach the credit identifier comprises a string of characters. Wells et al. teaches the credit identifier comprises a string of characters (see paragraph 0036, lines 8-13). It would have been obvious to one of ordinary skill in the art to include in the method of Winig the feature of Wells et al. since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

35. As per claim 29, Winig teaches the method of claim 21 as described above. Winig does not explicitly teach the credit transaction is associated with a commercial transaction. Wells et al. teaches the credit transaction is associated with a commercial transaction (see paragraph 0016, lines 10-12). It would have been obvious to one of ordinary skill in the art to include in the method of Winig the feature of Wells et al. since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

36. As per claim 30, Winig in view of Wells et al. teaches the method of claim 29 as described above. Winig does not explicitly teach the mechanism is associated with the credit identifier and the credit transaction is associated with an aspect of the commercial transaction. Wells et al. teaches the mechanism is associated with the credit identifier and the credit

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transaction is associated with an aspect of the commercial transaction (see paragraph 0016, lines 10-12 and paragraph 0110, lines 3-9). It would have been obvious to one of ordinary skill in the art to include in the method of Winig the feature of Wells et al. since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

37. As per claim 31, Winig in view of Wells et al. teaches the method of claim 30 as described above. Winig does not explicitly teach the aspect of the commercial transaction comprises an identity of a commodity. Wells et al. teaches the aspect of the commercial transaction comprises an identity of a commodity (see paragraph 0109, lines 1-6). It would have been obvious to one of ordinary skill in the art to include in the method of Winig the feature of Wells et al. since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

38. As per claim 32, Winig in view of Wells et al. teaches the method of claim 30 as described above. Winig does not explicitly teach the aspect of the commercial transaction comprises a context of the commercial transaction. Wells et al. teaches the aspect of the commercial transaction comprises a context of the commercial transaction (see paragraph 0109, lines 1-6). It would have been obvious to one of ordinary skill in the art to include in the method of Winig the feature of Wells et al. since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function

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as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

39. As per claim 33, Winig in view of Wells et al. teaches the method of claim 32 as described above. Winig does not explicitly teach the credit identifier is unique only with respect to the context in which the commercial transaction occurs. Wells et al. teaches the credit identifier is unique only with respect to the context in which the commercial transaction occurs (see paragraph 0110, lines 3-9 and paragraph 0114). It would have been obvious to one of ordinary skill in the art to include in the method of Winig the feature of Wells et al. since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

40. As per claim 34, Winig in view of Wells et al. teaches the method of claim 32 as described above. Winig does not explicitly teach the context of the commercial transaction comprises a physical location at which goods or services are offered for sale to the one party. Wells et al. teaches the context of the commercial transaction comprises a physical location at which goods or services are offered for sale to the one party (see paragraph 0109, lines 1-6). It would have been obvious to one of ordinary skill in the art to include in the method of Winig the feature of Wells et al. since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

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41. As per claim 35, Winig in view of Wells et al. teaches the method of claim 32 as described above. Winig does not explicitly teach the context of the commercial transaction comprises an identity of a vendor of goods or services. Wells et al. teaches the context of the commercial transaction comprises an identity of a vendor of goods or services (see paragraph 0109, lines 1-6). It would have been obvious to one of ordinary skill in the art to include in the method of Winig the feature of Wells et al. since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Response to Arguments

42. Applicant's arguments with respect to claims 1-35, 138 and 139 have been considered but are moot in view of the new ground(s) of rejection.

43. Applicant's arguments are not persuasive because, for example, the Winig reference teaches only crediting accounts (credit transaction) and is not able to process debit transactions. Furthermore, all of the account information is connected to the UPIC. The UPIC is used in a transaction to identify the company to be paid.

44. During patent examination, the pending claims must be given the **broadest reasonable interpretation consistent with the specification**. Reading a claim in light of the specification, to thereby interpret limitations explicitly recited in the claim, is quite different from reading

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limitations of the specification into a claim, to thereby narrow the scope of the claim by implicitly adding disclosed limitations which have no express basis in the claim. *In re Prater*, 162 USPQ 541 (CCPA 1969). Although claims are interpreted in light of the specification, **limitations from the specification are not read into the claims.** *In re Van Geuns*, 26 USPQ2d 1057 (CA FC 1993).

45. It is assumed that every reference relies to some extent on the knowledge of persons skilled in the art to complement that which is disclosed therein. Further, the skilled artisan is presumed to know something more about the art than only what is disclosed in the applied reference(s). In other words, the person having ordinary skill in the art has a level of knowledge apart from the content of the references. *In re Bode*, 550 F.2d 656, 660, 193 USPQ 12, 16 (CCPA 1977), *In re Jacoby*, 309 F.2d 513, 516, 135 USPQ 317, 319 (CCPA 1962). A conclusion of obviousness is established "from common knowledge and common sense of the person or ordinary skill in the art without any specific hint or suggestion in a particular reference." *In re Bozek*, 416 F.2d 1385, 1390, 163 USPQ 545, 549, (CCPA 1969). see Also MPEP 2144 "Sources of Rationale Supporting a Rejection Under 35 U.S.C. 103: Rationale May Be in a Reference, or Reasoned from Common Knowledge in the Art, Scientific Principles, Art – Recognized Equivalents, or Legal Precedent."

Conclusion

46. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. D'Agostino, U.S. PG-Pub No. 2002/0120587 (reference B on the attached PTO-892) teaches a method and system for performing secure user account purchases. Card News, "American Express Debut One-Time Use Card Numbers to Cut On-Line Fraud" (reference V on the attached PTO-892), teaches generating a unique number to be used to make a purchase.

47. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SAMICA L. NORMAN whose telephone number is (571)270-1371. The examiner can normally be reached on Mon-Thur 6:30a-5p, w/ Fri off.

48. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Dixon can be reached on (571) 272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

49. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/THOMAS A DIXON/
Supervisory Patent Examiner, Art Unit 3696

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